

# 7 FAM 940 TRAVEL OF WITNESSES AND GOVERNMENT OFFICIALS

## 7 FAM 941 TRAVEL ABROAD OF U.S., STATE, AND LOCAL GOVERNMENT OFFICIALS

(TL:CON-61; 8-30-94)

a. *U.S. Federal, State, and local government officials traveling abroad on judicially-related official business (such as interviewing witnesses, taking depositions, or conducting investigations or inspections) must inform the Department (CA/OCS) prior to travel. The Office of the Inspector General of the Department of State is excepted from this provision. Most host governments regard the conduct of such business by foreign authorities as a violation of sovereignty unless cleared in advance through diplomatic channels. Travel without prior clearance can result in the arrest, detention, expulsion, or deportation of the official and can negatively affect U.S. policy interests and future attempts to gain host country assistance.*

b. *U.S. Government officials traveling abroad to conduct official business may do so only as authorized by the U.S. chief of mission who under law and Presidential directive has full responsibility for the direction, coordination, and supervision of U.S. Government officers and employees in the country to which he or she is accredited. Officials of the Department's Office of the Inspector General are also excepted from this provision. While local police permission or other low level approval from foreign officials may be useful, such clearance does not constitute official permission from the foreign government which must be obtained through the chief of mission [for restrictions on visits of foreign government officials to the United States, see section 7 FAM 916 ].*

c. The Department (CA/OCS) has requested that all Federal agencies and State secretaries of state and attorneys general provide the following information for travel requests to the Department in a standard format for rapid relay to consular officers for clearance.

(1) Names of persons traveling abroad for purposes of investigation, with titles, district, and FTS and home telephone numbers;

(2) Name of case;

(3) Nature of case (briefly);

(4) Whether the case involves the foreseeable prosecution of a foreign national;

(5) Purpose of investigation (for example: interviewing witnesses, taking depositions, or conducting other investigation);

(6) Whether Interpol or another police agency has cleared the visit, and whether local police are prepared to cooperate (explain in detail).

(7) Whether foreign embassy consular or diplomatic officials have been consulted about the travel and, if so, which officials and their reactions;

(8) Whether individuals traveling abroad hold official government passports;

(9) Sensitivity of the case;

(10) Names and nationalities of persons to be interviewed or deposed;

(11) Itinerary;

(12) Whether assistance of American embassy, consulate, or other personnel is required and, if so, the nature of assistance (for example, consular officer to administer oath, provide office space);

(13) Whether assistance of stenographer, court reporter, or interpreter is desired (if so, the state or federal agency proposing the travel must provide an appropriation number and fund code or otherwise assure funding); and

(14) Whether there are other details that would help the Department communicate with parent agencies of the visiting officials to ensure that difficulties do not arise.

d. A consular officer should be aware of the time constraints under which such *law enforcement or other officials are often operating (which sometimes make seeking prior approval difficult)* and of the importance of the time and manner in which clearances are obtained from the host country. *The manner in which clearance is obtained (diplomatic note, letter, telephone, or some other means) is left to the post's discretion, and host country requirements.* When consular officers learn of the presence of U.S. Federal, State or local officials through means other than Department channels, they should report the information set forth above to the Department (CA/OCS).

## **7 FAM 942 TRAVEL ABROAD OF U.S. WITNESSES**

(TL:CON-61; 8-30-94)

a. When a U.S. citizen is *desired as a witness in a criminal case* in a foreign country, the Department (CA/OCS) often provides liaison between the foreign government and the witness. This liaison generally involves arranging for the U.S. citizen to testify. When the U.S. citizen was a victim of a crime in a foreign country and is needed as a witness for the prosecution, the foreign country is *generally* responsible for the travel and hotel expenses. Protection of the witness may also be necessary. The consular officer usually is contacted directly by the foreign authority or the witness for assistance.

b. If the *required* witness is a U.S. Government official, the consular officer should be aware that:

(1) Coordination between the consular officer and the foreign government, and between the Department (CA/OCS) and the U.S. Government agency, is crucial to successful arrangements for the witness's travel; and

(2) The parent agency is usually wary of releasing its personnel to appear before a foreign tribunal; therefore, ample lead time is essential *for agency consideration and approval*.

## **7 FAM 943 TRAVEL OF U.S. GOVERNMENT OFFICIALS ABROAD TO INTERVIEW U.S. CITIZENS**

(TL:CON-61; 8-30-94)

Where a U.S. Government official (for example, an Assistant U.S. Attorney), travels abroad to interview a U.S. citizen prisoner *in connection with a U.S. law enforcement investigation* [see section 7 FAM 400 ], *the consular officer, who normally provides consular services to the prisoner, must not appear to participate in the interview. (Such participation could diminish the officer's ability to provide consular protection by creating an adversarial relationship with the prisoner.) If post assistance is required of an officer during or in connection with the interview, a second consular officer, or other embassy/consulate officer where only one consular officer is available, should provide that assistance.*

## **7 FAM 944 TRAVEL OF WITNESSES FROM ABROAD TO UNITED STATES**

(TL:CON-61; 8-30-94)

a. *The Department of Justice sometimes requests consular officers to contact willing witnesses and assist in making arrangements for their travel to the United States to testify at judicial proceedings. Most requests are sent by telegram or FAX and include funding information if required. Assistance could include furnishing the witness with roundtrip airline tickets or a cash advance.*

b. *The cash advance is estimated to cover all pertinent travel expenses and is paid to the witness prior to travel. If the request comes from an entity outside the Federal Government, tickets must be prepaid or monies received at the post or in the Department (CA/OCS) before a Government Transportation Request (GTR) is issued.*

c. *In many cases involving the travel of a witness to the United States, the post is directly notified by the District Office of the United States Attorney concerned. District Offices use a government credit card. No cash advance is paid to the witness. All incidental travel expenses, foreign and U.S., are paid out of pocket by the witness and repaid after testimony is completed. The Office of the United States Attorney and U.S. Marshal concerned are responsible for instructing a witness on how to submit a voucher for reimbursement of travel expenses.*

d. *Some witnesses may be unwilling to pay their travel expenses and await later reimbursement. If a witness declines travel under such circumstances, the post must so advise the District Office of the United States Attorney by telegram or FAX and await instructions before proceeding.*

e. *In arranging any witness travel, the consular officer must be sensitive to the visa eligibility of the witness and to the question of the possible necessity for a visa waiver. The Immigration and Naturalization Service assists in processing waivers under the Attorney General's discretionary authority [see sections 9 FAM 41.121 and 9 FAM 40.8 Waivers].*

## **7 FAM 945 THROUGH 949 UNASSIGNED**